

Jeffery J. Matthews, OSB #973280

jeffery.j.matthews@harrang.com

Ben Miller, OSB #074690

ben.miller@harrang.com

Harrang Long Gary Rudnick P.C.

360 East 10th Avenue, Suite 300

Eugene, OR 97401-3273

Telephone: (541) 485-0220

Facsimile: (541) 686-6564

Of Attorneys for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

**JOANN ALLEN ERNST, JAMIE ALLEN,
JOANNA ALLEN and JACK ALLEN,**

Plaintiffs,

vs.

**CITY OF EUGENE, a municipality; Officer
JOE KIDD, and Officer MATT LOWEN, in
their individual capacity, and as a police
official for the City of Eugene,**

Defendants.

Case No. 10-6245-AA

**DEFENDANTS' MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS**

Pursuant to Fed. R. Civ. P. 37

ORAL ARGUMENT REQUESTED

LR 7-1(a) AND FED. R. CIV. P. 37(a)(1) CERTIFICATION

The undersigned counsel certifies that he has made a good faith effort through written correspondence, email correspondence, phone calls, and in person meetings with plaintiffs' counsel, in an effort to obtain discovery without court action, but has been unable to do so.

MOTION

Pursuant to Fed. R. Civ. P. 37, defendants move the court for an order as follows:

1. Requiring plaintiffs to produce the following documents:
 - a. All medical records concerning the physical injuries and the mental suffering or conditions for which plaintiffs seek recovery of damages in this lawsuit;
 - b. All records concerning the “economic damages for reasonable medical/counseling expenses and attorney fees” which are referred to in the prayer for relief in plaintiffs’ Complaint;
 - c. All medical bills or other records regarding any and all expenses paid by plaintiffs, or by anyone else on behalf of plaintiffs, including any insurance carrier, for injuries or conditions for which plaintiffs seek damages in this lawsuit;
 - d. All medical records of prior examination or treatment for any physical injury or mental condition of a similar nature to those for which plaintiffs are seeking recovery in this lawsuit; and
 - e. All documents which relate to criminal charges filed against plaintiffs at any time in their lives, including but not limited to, documents regarding arrests, prosecutions, convictions and incarcerations, including all records concerning the charges which were filed against plaintiffs as a result of the incident involved in this lawsuit.
2. Requiring plaintiffs to pay defendants’ reasonable expenses incurred in making this motion, including attorney’s fees.

This motion is supported by Defendants’ Memorandum in Support of Motion to Compel

////

////

////

Production of Documents, the Declaration of Ben Miller with attached exhibits, and the court's file.

DATED this 1st day of March, 2011.

HARRANG LONG GARY RUDNICK P.C.

By: s/ Ben Miller
Jeffery J. Matthews, OSB #973280
jeffery.j.matthews@harrang.com
Ben Miller, OSB #074690
ben.miller@harrang.com
Telephone: (541) 485-0220
Facsimile: (541) 686-6564

Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on March 1, 2011, I served or caused to be served a true and complete copy of the foregoing **DEFENDANTS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS** on the party or parties listed below as follows:

<u> X </u>	Via CM / ECF Filing
<u> </u>	Via First Class Mail, Postage Prepaid
<u> </u>	Via Email
<u> </u>	Via Personal Delivery

Brian Michaels
Attorney at Law
259 E. 5th Avenue, Suite 300-D
Eugene, OR 97401
Of Attorneys for Plaintiffs

Marianne Dugan
Attorney at Law
259 E. 5th Avenue, Suite 200-D
Eugene, OR 97401
Of Attorneys for Plaintiffs

HARRANG LONG GARY RUDNICK P.C.

By: s/ Ben Miller
Jeffery J. Matthews, OSB #973280
jeffery.j.matthews@harrang.com
Ben Miller, OSB #074690
ben.miller@harrang.com
Telephone: (541) 485-0220
Facsimile: (541) 686-6564

Of Attorneys for Defendants

00303623.DOC;1

CERTIFICATE OF SERVICE